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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 ICT LAW AND TECHNOLOGY  
9 GROUP, PLLC,

10 Plaintiff,

11 v.

12 SEATREE PLLC, and JAMES J.  
13 NAMIKI,

14 Defendants.

C17-1681 TSZ

MINUTE ORDER

15 The following Minute Order is made by direction of the Court, the Honorable  
16 Thomas S. Zilly, United States District Judge:

17 (1) Defendant's Motion to Dismiss, docket no. 7, is GRANTED in part and  
18 DEFERRED in part, as follows:

19 (a) Counts I and II are DISMISSED without prejudice. The Complaint,  
20 docket no. 1, does not plausibly allege that Mr. Namiki or Seatree PLLC were  
21 persons acting under the color of state law sufficient to state a 42 U.S.C. § 1983  
22 claim against them. *Naffe v. Frey*, 789 F.3d 1030, 1035–36 (9th Cir. 2015).

23 (b) Count III, brought under the Racketeer Influenced and Corrupt  
Organizations Act (RICO), is DISMISSED without prejudice.

(c) Count IV is DISMISSED with prejudice. Plaintiff did not properly  
remove the state court action alleged in the Complaint in accordance 28 U.S.C.  
§ 1446.

1 (2) Plaintiff's Motion for Leave to File Supplement to Original Complaint,  
2 docket no. 39, is treated as a motion to amend the Complaint. The motion is GRANTED.  
3 If ICT wishes to amend its complaint, it shall file an amended complaint within twenty-  
4 eight (28) days of this Minute Order.

5 (3) If ICT seeks to re-plead a RICO claim, it shall submit with its amended  
6 complaint a RICO case statement, which shall include the facts upon which ICT is  
7 relying to support its RICO claim as a result of the "reasonable inquiry" required by  
8 Federal Rule of Civil Procedure 11. The RICO statement shall be in a form using the  
9 numbers and letters as set forth below, and shall state in detail and with specificity the  
10 following information:

- 11 1. RICO Provision: State whether the alleged unlawful conduct  
12 is in violation of 18 U.S.C. §§ 1962(a), (b), (c), and/or (d).
- 13 2. Defendants: List each RICO defendant and state the alleged  
14 misconduct and basis of liability of each RICO defendant.
- 15 3. Other RICO Violators: List all alleged RICO violators other  
16 than the RICO defendants listed above, and state the alleged  
17 misconduct of each alleged wrongdoer.
- 18 4. Victims: List the alleged victims and state how each victim  
19 was allegedly injured.
- 20 5. Pattern of Racketeering Activity: Describe in detail the  
21 pattern of racketeering activity or collection of unlawful debts  
22 alleged for each RICO claim. A description of the pattern of  
23 racketeering shall include the following information:
  - a. List the alleged predicate acts and the specific statutes  
that were allegedly violated;
  - b. Provide the dates of the predicate acts, the participants  
in the predicate acts, and a description of the facts  
surrounding the predicate acts;
  - c. If the RICO claim is based on the predicate offenses of  
mail fraud, wire fraud, or fraud in the sale of securities,  
then state the circumstances constituting fraud "with  
particularity," Fed. R. Civ. P. 9(b), including the time,  
place, and contents of the alleged misrepresentations,  
and the identity of persons to whom and by whom the  
alleged misrepresentations were made;

- 1 d. State whether there has been a criminal conviction for  
2 violation of the predicate acts and, if so, provide  
3 particulars;  
4 e. State whether civil litigation has resulted in a judgment  
5 with respect to the predicate acts and, if so, provide  
6 particulars; and  
7 f. Describe how the predicate acts are both “related” and  
8 “continuous” within the meaning of *H.J. Inc. v. Nw.*  
9 *Bell Tel. Co.*, 492 U.S. 229, 239 (1989), and its  
10 progeny, including *Allwaste, Inc. v. Hecht*, 65 F.3d  
11 1523, 1527 (9th Cir. 1995).
- 12 6. Enterprise: Describe in detail the alleged enterprise and  
13 specify what structure it had. A description of the enterprise  
14 shall include the following information:
- 15 a. State the names of the individuals, partnerships,  
16 corporations, associations, or other legal entities, that  
17 allegedly constitute the enterprise;  
18 b. Describe the structure, purpose, function, and course  
19 of conduct of the enterprise;  
20 c. State whether any defendants are employees, officers,  
21 or directors of the alleged enterprise or are associated  
22 with the alleged enterprise;  
23 d. Describe the alleged relationship between the activities  
of the enterprise and the alleged pattern of racketeering  
activity, and discuss how the racketeering activity  
differs from the usual and daily activities of the  
enterprise, if at all; and  
e. Describe how the enterprise was affected by or  
benefitted from the alleged pattern of racketeering  
activity.
7. Interstate or Foreign Commerce: Describe the effect of the  
activities of the enterprise on interstate or foreign commerce.
8. If the complaint alleges a violation of 18 U.S.C. § 1962(a),  
provide the following information: (i) State who received the  
income derived from the pattern of racketeering activity or

1 through the collection of an unlawful debt; and (ii) Describe  
2 the use or investment of such income.

- 3 9. If the complaint alleges a violation of 18 U.S.C. § 1962(b),  
4 provide the following information: (i) Describe in detail the  
5 acquisition or maintenance of any interest in or control of the  
6 alleged enterprise; and (ii) State whether the same entity is  
7 both the liable “person” and the “enterprise” under § 1962(b).
- 8 10. If the complaint alleges a violation of 18 U.S.C. § 1962(c),  
9 provide the following information: (i) State who is employed  
10 by or associated with the enterprise; and (ii) State whether the  
11 same entity is both the liable “person” and the “enterprise”  
12 under § 1962(c).
- 13 11. If the complaint alleges a violation of 18 U.S.C. § 1962(d),  
14 describe in detail the alleged conspiracy.
- 15 12. Injury to Business or Property: Describe (i) the alleged injury  
16 to business or property, and (ii) the direct causal relationship  
17 between the alleged injury and the violation of the RICO Act.
- 18 13. Damages: List the damages sustained by reason of the  
19 alleged violation of § 1962, indicating the amount for which  
20 each defendant is allegedly liable.

21 (4) Plaintiff’s motion for declaratory judgment under 28 U.S.C. § 2201(a),  
22 docket no. 54, is DENIED without prejudice. A party may not make a motion for  
23 declaratory judgment; instead, the party must bring an action for declaratory judgment.  
*Kam-Ko Bio-Pharm Trading Co., Ltd. v. Mayne Pharma Inc.*, 560 F.3d 935, 943 (9th Cir. 2009).

(5) The Clerk is directed to send a copy of this Minute Order to all counsel of record.

Dated this 6th day of June, 2018.

William M. McCool  
Clerk

s/Karen Dews  
Deputy Clerk